

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

TROY D. KIMMELL,)	
)	
Plaintiff,)	
)	
v.)	No. 3:18-cv-00070-JPH-MPB
)	
ENOVAPREMIER OF INDIANA LLC,)	
GUSTAVO JIMENEZ, INC.)	
a/k/a SOUTHWEST FREIGHTLINES,)	
INC.,)	
SUPERIOR INDUSTRIES)	
INTERNATIONAL, INC,)	
SUPERIOR INDUSTRIES NORTH)	
AMERICA, S.DE R.L. DE C.V.,)	
)	
Defendants.)	
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SUPERIOR INDUSTRIES)	
INTERNATIONAL, INC,)	
SUPERIOR INDUSTRIES NORTH)	
AMERICA, S.DE R.L. DE C.V.,)	
UNITED SPECIALTY INSURANCE)	
COMPANY,)	
)	
Cross Claimants,)	
)	
v.)	
)	
GUSTAVO JIMENEZ, INC.,)	
GUSTAVO JIMENEZ, INC.,)	
)	
Cross Defendant.)	
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UNITED SPECIALTY INSURANCE)	
COMPANY,)	
)	
Intervenor)	
Defendant.)	

**ORDER ON SUPERIOR INDUSTRIES INTERNATIONAL INC.'S
MOTION FOR SUMMARY JUDGMENT**

On June 17, 2016, Troy Kimmell suffered serious injuries after a shipment of aluminum wheels fell on him as he was unloading a trailer. Dkt. 22 ¶¶ 11, 16. Mr. Kimmell filed a complaint alleging that Superior Industries International, Inc. “negligently loaded the semi-trailer at issue.” *Id.* ¶ 17(A).

Superior moved for summary judgment on Mr. Kimmell’s “sole allegation” against Superior: that Superior is responsible for his injuries because it loaded the semi-trailer negligently. Dkt. 54 at 5. Superior argued that it was entitled to summary judgment because it did not load the semi-trailer led to Mr. Kimmell’s injuries. *Id.*

After Superior moved for summary judgment, Mr. Kimmell “acquired evidence that [Superior] did not load the trailer . . . but committed other acts of omission and negligence” that caused his injuries. Dkt. 82 ¶ 3. Therefore, Mr. Kimmell filed an amended complaint that no longer alleged that Superior negligently loaded the trailer. Dkt. 88. Instead, it alleged that Superior negligently instructed others how the load should be secured in the trailer and failed to provide straps to secure the load. *Id.* ¶ 19.

An amended complaint supersedes a prior complaint, rendering the original complaint void. *Flannery v. Recording Indus. Ass’n of Am.*, 354 F.3d 632, 638 (7th Cir. 2004). Since Mr. Kimmell no longer alleges that Superior negligently loaded the trailer that fell on him, Superior’s motion for summary judgment is **DENIED without prejudice as moot**. See *Parker v. Trueblood*, No.

2:17-cv-256, 2017 WL 6406836, at *2 (S.D. Ind. Dec. 15, 2017) (holding that the filing of an amended complaint rendered a preceding motion for summary judgment moot).

SO ORDERED.

Date: 10/3/2019

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

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